

Central Intelligence Agency



Washington, D.C. 20505

CHRONO

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14 November 1985

OLL85-3291/4

Mr. James M. Frey
Assistant Director for Legislative
Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

This is in response to your request for Agency comments on a State Department draft bill providing for the security of United States Government personnel abroad. While the Agency appreciates the purpose of the draft bill, it has some serious concerns with certain provisions of this proposed legislation. These concerns are described more fully below.

The first area of Agency concern is with the intended scope of this bill and its possible impact on day-to-day Agency overseas activities. The broad nature of the responsibilities set forth in Section 101 could be construed to suggest that the State Department is now responsible not only for the physical protection of Agency personnel, but also for the security of Agency operational activities. Ultimate responsibility for such Central Intelligence Agency (CIA) activities must, of course, reside with the Agency in order for the Agency to effectively and efficiently carry out its assigned responsibilities and mission. In order to avoid confusion concerning the Director of Central Intelligence's responsibilities and authorities in this area, we would suggest the addition of a new subsection 101(f):

- (f) Nothing contained herein shall be construed to effect the Director of Central Intelligence's existing security responsibilities for CIA personnel, information or activities. Consistent with such authorities and responsibilities, the CIA shall cooperate with the Department of State as provided in subsection (b).

The Agency also has significant problems with the system of Accountability Review Boards (ARB) that is created under the bill. We have a general concern with this entire ARB process since we are unconvinced that this type of finger-pointing and blame attribution will significantly advance the cause of diplomatic security abroad or at home. The time, money and effort devoted to any ARB-like process might be better spent on

physical security improvements and/or enhanced counterintelligence collection. In addition, the operation of these boards under the Administrative Procedures Act and the creation of a right to judicial review of the administrative record of these proceedings will result in potentially sensitive intelligence information becoming the subject of civil litigation in the courts. This inevitable public airing of overseas security matters is in total conflict with the secrecy and stringent security requirements needed by the Agency to undertake its overseas mission.

Beyond our general objection to this ARB process, the Agency has some specific problems concerning the operation of these boards as provided in the draft legislation. There is no expressed provision in the bill requiring the members and staff employees of, and detailees and consultants to, the ARB to hold security clearances at any level. We believe such a provision should be included. In addition, Section 208, which addresses reports to Congress of ARB recommendations, does not, but should, make express provision for the protection of classified and similar sensitive information in this reporting process. Finally, we assume that Sections 101(b) and 202(b) cannot be interpreted to compel the Agency to supply resources or personnel to the Bureau of Diplomatic Security or the ARB on a non-reimbursable basis.

In sum, the Agency is opposed to this ARB process. If a decision is made to include this system in the bill, the Agency believes that, in order to avoid confusion concerning a derogation of existing Director of Central Intelligence (DCI) authorities, a new Section 211 is needed to protect sensitive CIA activities and information while ensuring that Agency employees are subject to this same type of review:

Section 211. Notwithstanding any other provision of this Act, the personnel, activities, and information of the Central Intelligence Agency shall not be subject to the authority or jurisdiction of any Accountability Review Board convened pursuant to this title. Any case involving the Central Intelligence Agency which would otherwise require that an Accountability Review Board be convened pursuant to this title shall be reviewed by a task force specifically designated by the Director of Central Intelligence for appropriate action and the Director of Central Intelligence shall transmit a copy of such findings and conclusions to the President.

Finally, Section 301 provides substantial appropriations to the Department of State to implement this improved overseas security program. No definitive allocation of these monies is provided for in the bill. While the Agency supports this increased funding, it wishes to note that the undertaking of a program of this magnitude has obvious resource and other implications for Agency overseas activities which should be accommodated in this bill.

Given the Agency's substantial concerns with this State Department draft bill, we would appreciate being apprised of any decisions or further developments that are made with respect to this legislation. Please contact either me or [redacted] of my office [redacted] if you require further assistance or information on this bill. STAT
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Sincerely,

[redacted]

Charles A. Briggs
Director, Office of Legislative Liaison

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